

ORDER NO. 1301

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton; and  
Robert G. Taub

Mail Processing Network  
Rationalization Service Changes, 2012

Docket No. N2012-1

ORDER CONCERNING SCHEDULING  
OF UPDATED POSTAL SERVICE TESTIMONY

(Issued March 29, 2012)

During the March 20-23, 2012 hearings, several witnesses were asked to provide updates to testimony based on new information contained in the Area Mail Processing (AMP) studies released on February 23, 2012. This Order integrates additional steps into the existing procedural schedule to accommodate entering updated Postal Service testimony into the record. Further, it provides opportunities for intervenors to probe this material and update any intervenor testimony that may have been filed in the interim. This Order does not extend or modify existing dates within the procedural schedule announced on January 12, 2012.<sup>1</sup>

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<sup>1</sup> See Presiding Officer's Ruling Establishing Procedural Schedule, January 12, 2012 (P.O. Ruling N2012-1/5).

During the March 23, 2012 hearing, the Postal Service provided proposals for updating Postal Service testimony.<sup>2</sup> The Postal Service begins by stating that on March 30, 2012, witness Williams will provide a summary of results of the network rationalization studies that form the basis for the February 23, 2012 consolidation decisions. The Postal Service then indicates that additional testimony may be updated after it publishes final rules associated with the consolidation initiative. Publication of the final rules is anticipated by the middle of April.

The Postal Service states that witness Martin will recast the transportation change estimates in her testimony on the basis of the final service standard rules. The Postal Service also states that witness Bratta expects to be able to produce a high level estimate of the maintenance workhours and other related savings contained within his testimony. The Postal Service estimates that the updates can be completed in the mid-April timeframe.

The Postal Service explains that the testimonies of witnesses Smith and Bradley are built upon the testimonies of witnesses Bratta and Martin. The Postal Service indicates that the testimonies of witnesses Smith and Bradley can be updated within 2 weeks of receiving the revised estimates from witnesses Bratta and Martin. The Postal Service concludes that it expects everything can be finalized and presented to the Commission in the first week of May.

Parties were provided an opportunity to comment on the Postal Service's proposals. Comments were filed by American Postal Workers Union, AFL-CIO (APWU)

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<sup>2</sup> Tr. 5/1538-42. For the purpose of comparison with previously filed material, updates are proposed to be provided on the basis of FY 2010 data.

and the National Postal Mail Handlers Union (NPMHU).<sup>3</sup> The Postal Service filed a response to the APWU and NPMHU comments.<sup>4</sup>

APWU requests 3 weeks of additional discovery from the date of filing new or substantially modified Postal Service testimony. APWU Comments at 1. APWU further requests the provision of 3 weeks from the close of the additional discovery period to supplement and amend previously filed intervenor testimony and exhibits. *Id.*

NPMHU asserts that the revisions to testimony to reflect the AMP studies are essential to the Commission for rendering an opinion of the advisability on the Postal Service's plan. NPMHU Comments at 2. NPMHU comments that the Postal Service did not make available the AMP studies announced on February 23, 2012 until March 8, 2012, and now suggests that it is unable to update testimony until mid-May. *Id.* at 3. NPMHU suggests that to protect intervenor rights and ensure adequate development of the record, 2 weeks of additional discovery be permitted directed towards any new Postal Service material. *Id.* It suggests that the opportunity to request oral cross-examination also be provided. Finally, NPMHU requests the opportunity to update intervenor testimony within 14 days following the filing of responses to additional Postal Service discovery. *Id.*

While the Postal Service has agreed to update testimony, it does not agree that updates to testimony are necessary. It contends that the fundamental foundation of its request for an advisory opinion does not change with the February 23, 2012 facility consolidation study announcements. The Postal Service recognizes that updates may shed light on the beginning, but not the end, of an analysis that eventually will allow a comparison with its original projections.

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<sup>3</sup> Statement of the American Postal Workers Union, AFL-CIO Concerning Modification of the Procedural Schedule, March 27, 2012 (APWU Comments). An American Postal Workers Union, AFL-CIO Motion for Late Acceptance of Statement Concerning Modification of Procedural Schedule, March, 27, 2012, accompanied the APWU Comments. The motion is granted. Statement by Intervenor National Postal Mail Handlers Union Regarding Discovery Schedule in Light of the Postal Service's Anticipated Supplementation or Revision of Testimony, March 26, 2012 (NPMHU Comments).

<sup>4</sup> Reply of the United States Postal Service to Statements of NPMHU and APWU Regarding the Procedural Schedule, March 27, 2012 (Postal Service Comments).

The Postal Service cautions there is little utility in assuming the consolidation decisions announced on February 23, 2012 will depict the network when fully implemented. Postal Service Comments at 2. From what the Postal Service currently projects, there may be a somewhat lower annual cost savings than originally estimated. *Id.* at 3. However, the Postal Service contends the precise number has no bearing on the core question of whether the service standards proposed are consistent with the policies of title 39. *Id.* at 4.

The Postal Service proposes a procedural schedule for supplementing its direct case. *Id.* at 5. It proposes a 7-day written discovery period starting from when the updated testimony is filed. This is to include a 10-day deadline for filing responses. It offers to schedule informal off the record technical conferences if necessary. The Postal Service suggests that oral cross-examination on the updated material can occur concurrent with the June 12-15, 2012 hearing dates for entering rebuttal testimony into the record. *Id.* at 6. Finally, the Postal Service suggests that intervenors be provided the opportunity to supplement rebuttal testimony in late May, with an extension of discovery directed towards this material. *Id.*

The Commission has reviewed the APWU, NPMHU, and Postal Service comments and establishes the procedural schedule that follows by balancing the needs and rights of the parties and the Commission, with the goal of adhering to the overall procedural schedule of this docket. This can be accomplished by adding additional procedural steps to the existing schedule.

The Commission expects the summary referenced by witness Williams to be filed by March 30, 2012 as announced by the Postal Service. Any updates to his testimony necessary to incorporate information contained in the summary shall be due by April 6, 2012.

The Postal Service indicates that updates to witnesses Bratta's and Martin's testimonies may be available in mid-April. Timely production of these updates is made questionable by statements that the updates would follow announcement of new service standards, which are expected by mid-April. Updates to the testimony of witnesses

Bratta and Martin should begin immediately, incorporating those AMP decisions announced in February 2012, and any subsequent decisions available to the witnesses. Delay pending release of the new service standards is not acceptable. The updates to testimony of witnesses Bratta and Martin shall be filed by April 16, 2012. Updates to the testimony of witnesses Smith and Bradley shall be filed by April 30, 2012.

Written discovery will not be allowed concerning the Postal Service's updated testimony. In place of written discovery, a hearing will be scheduled allowing for oral cross-examination only on the updates provided by these five witnesses. The hearing is scheduled for May 9-10, 2012, at 9:30 a.m. in the Commission's hearing room. Requests to conduct oral cross-examination shall be due on May 4, 2012.

Intervenors are encouraged to avail themselves of the Postal Service's offer to conduct informal technical conferences. Intervenors also are encouraged to pursue the Postal Service's offer for informal communications with the Postal Service to resolve questions and thereby minimize oral cross-examination. Assuming that the Postal Service's representation that updates will only have limited impact on its proposals is correct, the combination of informal discovery and the opportunity for oral cross-examination should ensure due process.

Intervenor rebuttal testimony shall continue to be due on April 23, 2012. Updates to intervenor testimony based on updated Postal Service testimony shall be allowed until May 24, 2012. A short additional discovery period will be allowed directed towards any updates to intervenor testimony, which shall close on June 1, 2012. Answers to this category of discovery shall be due within 10 days of the discovery request.

Related to scheduling issues, APWU requests an expedited procedure for obtaining access to any additional non-public materials filed in this docket. APWU Comments at 1-2. The Postal Service requests that the Commission not act on the request and suggests APWU explore with the Postal Service on how best to resolve access issues if they occur. Postal Service Comments at 6.

The procedures specified in 39 U.S.C § 3007 *et seq.* provide appropriate protection for non-public materials in this docket. Any individual who has been

authorized to access the data which is being updated will automatically have access to the updated information. If other new information is submitted as non-public, the Postal Service should work with intervenor counsel to expedite access for appropriate individuals.

*It is ordered:*

1. Additions to the procedural schedule in Docket No. N2012-1 are attached to this Order as Attachment 1.
2. An updated procedural schedule in Docket No. N2012-1 is attached to this Order as Attachment 2.
3. Answers to discovery directed towards updated intervenor testimony shall be due within 10 days of the discovery request.

By the Commission.

Shoshana M. Grove  
Secretary

**Additions to Procedural Schedule for Docket No. N2012-1**

**(March 29, 2012)**

Filing of witness Williams' cost summary	March 30, 2012
Filing of updates to witness Williams' testimony	April 6, 2012
Filing of updates to witness Bratta's and Martin's testimonies	April 16, 2012
Filing of updates to witness Smith's and Bradley's testimonies (and others as necessary)	April 30, 2012
Requests for oral cross-examination of Postal Service witnesses	May 4, 2012
Hearing to enter Postal Service's updated testimonies (9:30 a.m. in the Commission's hearing room)	May 9-10, 2012
Filing of updates to intervenor testimony	May 24, 2012
Close of discovery directed towards updated intervenor testimony	June 1, 2012

**Updated Procedural Schedule for  
Docket No. N2012-1 as of March 29, 2012**

Filing of witness Williams' cost summary	March 30, 2012
Close of discovery for developing intervenors' direct case	April 6, 2012
Filing of updates to witness Williams' testimony	April 6, 2012
Filing of updates to witness Bratta's and Martin's testimonies	April 16, 2012
Filing of rebuttal testimony	April 23, 2012
Filing of updates to witness Smith's and Bradley's testimonies (and others as necessary)	April 30, 2012
Requests for oral cross-examination of Postal Service witnesses	May 4, 2012
Hearing to enter Postal Service's updated testimonies (9:30 a.m. in the Commission's hearing room)	May 9-10, 2012
Conclusion of discovery directed towards rebuttal testimony	May 23, 2012
Filing of updates to intervenor testimony	May 24, 2012
Notice of intent to conduct oral cross-examination (rebuttal)	May 29, 2012



Close of discovery directed towards updated intervenor testimony	June 1, 2012
Hearing to enter rebuttal testimony into the record (9:30 a.m. in the Commission's hearing room)	June 12-15, 2012
Notice of intent to file surrebuttal testimony	June 15, 2012
Filing of surrebuttal testimony (if requested)	June 22, 2012
Hearing to enter surrebuttal testimony into the record (9:30 a.m. in the Commission's hearing room, if necessary)	June 28-29, 2012
Filing of briefs	
If no surrebuttal testimony filed	June 27, 2012
If surrebuttal testimony filed	July 10, 2012
Filing of reply briefs	
If no surrebuttal testimony filed	July 9, 2012
If surrebuttal testimony filed	July 20, 2012